

**ITINERANT VENDOR, MERCHANT, PEDDLER
PERMIT APPLICATION**

APPLICANT NAME _____ DATE OF BIRTH _____

DRIVERS LICENSE NUMBER _____ STATE _____

ADDRESS OF APPLICANT _____

TELEPHONE # OF APPLICANT _____

STATE COMPTROLLERS LIMITED SALES TAX PERMIT # _____
(Attach copy of tax permit)

NAME OF COMPANY _____

ADDRESS OF COMPANY _____

TELEPHONE # OF COMPANY _____

LOCATION WHERE BUSINESS IS TO BE
CONDUCTED _____

Written authorization from landowner(s) showing applicant has permission to use location must be attached to this application)

DESCRIPTION OF GOODS TO BE SOLD _____

NAME, ADDRESS, TELEPHONE NUMBER, DATE OF BIRTH, AND DRIVERS LICENSE NUMBER OF
ALL PERSONS SOLICITING UNDER THIS PERMIT

***Attach evidence of sufficient off-street parking with a minimum of four (4) parking spaces to
accommodate customers.**

***Attach proof that adequate sanitary facilities are available within two hundred (200) feet for use by
vendor's employees/agents and customers shall include written permission for the owner/lessee of the
restrooms.**

***\$50.00 permit fee per year; each permit valid for 45 days in one location, new permit required for each
new location, no additional fee for same vendor.**

Permit Fee: _____ Receipt #: _____ Date Paid: _____

ORDINANCE NO. 2002-__

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING TITLE 21 "OFFENSES AND MISCELLANEOUS PROVISIONS" BY AMENDING THE TITLE OF SECTION 21.01.18 TO "DOOR-TO-DOOR SOLICITORS, CANVASSERS, HAWKERS, ETC.;" ADDING A NEW SECTION 21.01.18A ENTITLED "ITINERANT VENDORS, MERCHANTS AND PEDDLERS;" PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council deems it appropriate to establish rules and regulations for itinerant vendors, merchants and peddlers that will enhance overall appearance and environment along public streets, sidewalks, and other public properties, and serve and protect the health, safety and welfare of the public welfare; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

SECTION 1: Title 21 "Offenses and Miscellaneous Provisions," Section 21.01.18 "Solicitors, canvassers, hawkers, peddlers, etc." is hereby amended to change the title which shall hereinafter be "Door-to-door solicitors, canvassers, hawkers, etc."

SECTION 2: Title 21 "Offenses and Miscellaneous Provisions" is hereby amended by adding a new Section 21.01.18A entitled "Itinerant vendors, merchants and peddlers" which shall hereinafter read as follows:

21.01.18A Itinerant vendors, merchants and peddlers.

A. Definitions. The following words and phrases, when used in this Section, shall have the meanings respectively ascribed to them:

Itinerant vendor, merchant or peddler. Any person not having a fixed place of business in a permanent building in the City which is either owned by such vendor, or under lease to such vendor for a period of not less than one hundred eighty (180) days, or any vendor who conducts a business from any truck, trailer, van, tent, awning, or any other type of structure or vehicle capable of being transported on the streets and highways of the City.

Person. Any individual, partnership, association, corporation, firm, club, trustee, or receiver.

Sanitary facilities. Toilet or restroom facilities which discharge the sewage effluent and wastewater into an approved holding tank, approved on-site sewage disposal system, or municipal sanitary sewer system.

B. Compliance required. It shall be unlawful for any itinerant vendor, merchant or peddler, or any person as agent or employee of such vendor, merchant or peddler, to buy, sell, offer, or exhibit for the purpose of taking orders for sale thereof, any good, ware, merchandise, service, photograph,

or other personal property at any location in the City without having complied with the provisions of this Section.

C. Permit required. Any itinerant vendor, merchant or peddler must obtain a permit from the City before commencing any activity regulated by this Section within the City except that in the case of a farmer's market, only one permit is required by the organizer or responsible party for the market and that permit will cover all vendors of food products at the market.

(1) Applicants for permits under this Section must file with the Chief Building Official during normal business hours, at least seventy-two (72) hours before soliciting activities begin, an application in writing on a form obtained from the City. In the event the applicant also wishes to engage in the sale of any food or food product, or offer or exhibit for the purposes of taking orders any food or food product, said applicant must comply with the health provisions relating to the sale of food and food products and pay the appropriate fees, Sections 13.02.01 and 13.02.02 of the Code as amended. Applications for permits under this Section shall contain the following information:

- (a) Name, date of birth, and driver's license number of the applicant;
- (b) Applicant's permanent address (both physical and mailing addresses) and telephone number;
- (c) A brief description of the nature of the business or services and the goods to be sold;
- (d) If the applicant is an employee or agent of a company, the name, address and telephone number of the company;
- (e) The location or locations where the applicant is to conduct his/her business, and written authorization from the landowner(s) showing that such applicant has permission to use such location(s);
- (f) Evidence that sufficient off-street parking exists with a minimum of four (4) parking spaces to accommodate customers at the location;
- (g) The number of the limited sales tax permit issued to the business by the Texas Comptroller's Office;
- (h) Satisfactory proof that adequate sanitary facilities are available within two hundred (200) feet for use by such vendor's employees or agents including written permission from the owner/lessee of the restrooms being used by the employees and/or agents; and
- (i) Name, address, telephone number, date of birth, and driver's license number of all persons soliciting under this permit.

Upon completion and presentation of the application, the Chief Building Official shall issue a permit in the form of a certificate, which must be kept by the permittee in a place where it is visible by the general public at all times while conducting business. Such permit shall contain the signature of the issuing officer and shall show the permittee's name, address, kind of goods to be sold thereunder, the location where the goods are to be sold, the date of issuance, the names of all persons soliciting thereunder, and the expiration date of such permit. A permit may not be issued for a period in excess of forty-five days, but may be renewed for one or more additional forty-five day periods within a 12-month period without the payment of an additional fee. The Chief Building Official shall keep a permanent record of all permits issued.

D. Transfer. No permit issued under the provisions of this Section shall be transferred or assigned. A person commits an offense if he/she alters or uses the permit of any other person when not authorized to do so, if he/she allows another person to use such permit when said person is not authorized to do so, or if he/she uses the permit at a location not specified on the permit.

E. Exhibition of permit. Itinerant vendors, merchants or peddlers are required to exhibit their permits at the request of an authorized officer of the City or any citizen. Permits shall be conspicuously displayed in public view at any vending site permitted pursuant to this Section.

F. Fees. In advance of the issuance of any permit required herein, there shall be paid an annual fee of fifty dollars (\$50.00), the purpose of which is to defray actual expenses of the administration of this Section. Application and permit fees are nonrefundable and will not be prorated.

G. Use of streets. No itinerant vendor, merchant or peddler shall use a street, sidewalk, street right-of-way, or other public property for the sale or exhibit of goods and wares at the permitted location, nor shall they be permitted to operate in any congested or unsafe area where their operations might impede or inconvenience the public or create an unsafe condition. For the purpose of this provision, the judgment of a police officer or an inspector in the Building Inspection Division, exercised in good faith, shall be deemed conclusive as to whether the area is congested, unsafe, or the public impeded or inconvenienced.

H. Denial or suspension of permit.

(1) The Chief Building Official may deny or suspend the permit for failure to comply with any provision of this Section. Written notification of denial shall be given within forty-eight (48) hours from receipt of the application.

(2) A permit holder must immediately cease operation and surrender his/her permit upon receipt of written notification by the Chief Building Official for any violation of this Section.

(3) Operations shall remain suspended pending a hearing as prescribed in this provision. A request for a hearing must be filed within ten (10) days of notice of suspension of permit. If no request for hearing is received or such request is not filed timely, the suspension shall be upheld and the permit shall be revoked. Notice of hearing for revocation of the permit shall be given in writing setting forth the grounds for revocation and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her address given in the application for permit at least five (5) days prior to the date set for hearing.

(4) Permits under the provisions of this Section may be revoked by the Chief Building Official, after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation or false statement contained in the application for permit;

(b) Fraud, misrepresentation or false statement made in the course of carrying

on his/her business as a vendor, merchant or peddler;

(c) Any violation of this Section of the Code;

(d) Conviction of any misdemeanor or any felony if the crime directly relates to the conduct of a vendor's business;

(e) Written revocation of the landowner's consent to use the premises or written revocation of the permission of the owner/lessee of the sanitary facilities being used by permittee's employees or agents; and

(f) Conducting the business of vending or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.

(5) Appeal. The decision of the Chief Building Official may be appealed to the City Manager by filing a notice of appeal with the Chief Building Official within ten (10) days after notice of the decision of revocation by the Chief Building Official. The City Manager shall set the time and place of the hearing on such appeal and notice shall be given to the appellant in accordance with the provisions in (3) above. The decision and order of the City Manager on such appeal shall be final and conclusive.

I. Littering and Trash Removal. Permittees shall keep their vending sites or locations clean and free of paper, trash and refuse of any kind generated from the operation of their businesses, and trash, refuse and debris shall be collected by the vendor and deposited in a trash container.

J. Exemptions. The provisions of this Section shall not be held to be applicable to the following:

(1) Vendors of farm produce, agricultural products, or plants and vegetation on land owned or leased by the vendor, and if such products are sold at the site where those items are grown or raised by any member of such owner's or lessee's household;

(2) Sales of goods, wares and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some bona fide charitable, religious, sports organization, or university or school-sponsored purpose;

(3) Sales of goods, wares and merchandise by any bona fide charitable, religious, sports organization, or university or school-sponsored organization;

(4) Vendors, merchants, or peddlers selling or offering for sale any goods, wares, merchandise, services, or food items or food products from the confines of an authorized fair, festival, or event sanctioned by the City, the Huntsville-Walker County Chamber of Commerce, Sam Houston State University, or Texas Department of Criminal Justice provided that said vendors, merchants, or peddlers provide evidence of a valid limited use sales tax permit issued by the Texas Comptroller's Office to a sponsor of the event. Vendors, merchants, or peddlers selling or offering for sale food items or food products must comply with the health provisions relating to the sale of food or food products and pay the appropriate fees, Sections 13.02.01 and 13.02.02 of the Code as amended; and

(5) Persons engaged in interstate commerce shall be required to obtain a permit, but shall not be required to pay a fee therefor.

K. Penalty. Any person violating any of the provisions of this Section shall, upon conviction thereof, be punished by a fine as provided in Section 2.01.08 of the City Code of Ordinances.

SECTION 3: If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the City Council determines that it would have adopted this Ordinance without the invalid provision.

SECTION 4: This Ordinance shall take effective immediately from and after the date of its passage.

PASSED AND APPROVED THIS 6th DAY OF AUGUST, 2002.

CITY OF HUNTSVILLE, TEXAS

William B. Green, Mayor

ATTEST:

Danna Welter, City Secretary

APPROVED AS TO FORM:

Paul C. Isham, City Attorney